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ARTICLE XI. NEIGHBORHOOD NUISANCES

Sec. 10-451. Nuisances, generally.

- (a) Whatever is dangerous to human health or welfare, or whatever renders the ground, the water, the air, or food a hazard to human health is hereby declared to be a nuisance.
- (b) The following specific acts, conditions, and things are declared to constitute public nuisances and are hereby prohibited and made unlawful:
 - (1) The deposit or accumulation of any foul, decaying, or putrescent substance or other offensive matter in or upon any lot, street, or in or upon any public or private place in such a way as to become offensive or objectionable; the overflow of any foul liquids, or the escape of any gases, dusts, fumes, mists, and sprays to such an extent that the same, or any one of them, shall become, or be likely to become, hazardous to health or a source of discomfort to persons living or passing in the vicinity, or that the same shall by reason of offensive odors become a source of discomfort to persons living or passing in the vicinity thereof.
 - (2) A polluted well, or cistern, spring or stream, or the pollution of any body of water used for drinking purposes.
 - (3) The maintenance of any privy, vault or cesspool, except as provided in this Code.
 - (4) Keeping any building or room in such state of uncleanness or the crowding of person in any building or room in such a manner as to endanger the health of the persons dwelling therein, or so that there shall be less than 400 cubic feet of air to each adult, and 150 cubic feet of air to each child under 12 years of age occupying such building or room. To the extent of any conflict between the requirements of this item and those established in section 10-331 of this Code, the more restrictive shall apply.
 - (5) Allowing cellars to be used as sleeping rooms.
 - (6) A building or portion of a building occupied as a dwelling which is not lighted and ventilated by means of at least one window, opening to the outer air, in each room, or any such building which is not provided with a plentiful supply of pure water.

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- (7) The accumulation of manure, unless it is in a properly constructed pit or receptacle.
- (8) The maintenance, in a public place, of a roller towel for the use of more than one person.
- (9) The slopping or feeding of cattle or other animals on distillery swill, unless the enclosure wherein such slopping or feeding is done is provided with means for preventing and removing the unsanitary conditions associated with such slopping or feeding.
- (10) Permitting the existence of weeds, brush, rubbish, and all other objectionable, unsightly, and unsanitary matter of whatever nature covering or partly covering the surface of any lots or parcels of real estate situated within the city; permitting such lots or parcels of real estate, as aforesaid, to have the surface thereof filled or partly filled with holes or be in such condition that the same holds or is liable to hold stagnant water therein, or from any other cause be in such condition as to be liable to cause disease or produce, harbor, or spread disease germs of any nature or tend to render the surrounding atmosphere unhealthy, unwholesome, or obnoxious.

Such lots or parcels of real estate in addition to those grounds within their respective boundaries shall be held to include all lots or parcels of ground lying and being adjacent to and extending beyond the property line of any such lots or parcels of real estate to the curblin of adjacent streets, where a curblin has been established, and 14 feet beyond the property line where no curblin has been established on adjacent streets, and also to the center of adjacent alleys.

The word "weeds" as herein used shall include all rank and uncultivated vegetable growth or matter which has grown to more than nine inches in height or which, regardless of height, is liable to become an unwholesome or decaying mass or a breeding place for mosquitoes or vermin. The word "brush" as herein used shall include all trees or shrubbery under seven feet in height which are not cultivated or cared for by person owning or controlling the premises. The word "rubbish" shall include all refuse, rejected tin cans, old vessels of all sorts, useless articles, discarded clothing and textiles of all sorts, and in general all litter and all other things usually included within the meaning of such term. The words "any and all other objectionable, unsightly, or unsanitary matter of whatever nature" shall include all uncultivated vegetable growth, objects and matters not included within the meaning of the other terms as herein used, which are liable to produce or tend to produce an unhealthy, unwholesome or unsanitary condition to the premises within the general locality where the same are situated, and shall also include any

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species of ragweed or other vegetable growth which might or may tend to be unhealthy to individuals residing within the general locality of where the same are situated.

The provisions of this item (11) shall not be applicable to a "natural area," and it shall also constitute an affirmative defense to prosecution in any criminal proceeding that is initiated under this item (11) that the property or affected portion thereof is a "natural area" that is being maintained in accordance with a permit issued under section 32-10 of this Code and regulations issued thereunder, and further provided that:

- a. The natural area is maintained and managed so that no weeds or debris are allowed to accumulate and create an imminent hazard to health or safety; and
 - b. The natural area is regularly mowed so as to prevent uncontrolled vegetation growth within ten feet of a public roadway and within five feet of a public sidewalk.
- (11) Permitting the accumulation or collection of any water, stagnant, flowing, or otherwise, in which the mosquito breeds or which may become a breeding place for mosquitoes, unless such accumulation or collection of water is treated so as effectually to prevent such breeding.

The natural presence of well grown mosquito larvae, or of pupae, shall be evidence that proper precautions have not been taken to prevent the breeding of mosquitoes.

- (12) Permitting the detectible presence of urine or the presence of feces, vomit and other bodily fluids in or upon any property, including any sidewalk adjacent to any paved portion of a street abutting the property, that may be accessible to the public or in such a manner that the presence of any of the foregoing may be detected in the vicinity of the property.
- (13) The emission of any hazardous air pollutant listed in Appendix A to this section which may cause or contribute to concentrations in the ambient air that exceed the levels in Appendix A.

Notwithstanding the above, from January 1, 2008 through December 31, 2011, it shall be a violation of this section to permit or allow such emissions only to the extent that they may cause or contribute to concentrations in the ambient air that exceed the levels in Appendix B to this section.

It shall be an affirmative defense to prosecution under this section if the

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owner or operator of the facility causing or contributing to such emissions emits less than ten (10) tons per year of any single hazardous air pollutant or twenty-five (25) tons cumulatively of two or more hazardous air pollutants on the List or the owner or operator of the facility has entered into an agreement with the City to reduce the emissions of such hazardous air pollutants and the facility is in compliance with such agreement.

- (c) It shall be unlawful for any owner, lessee, occupant, or any agent, representative, or employee of any owner, lessee, or occupant or any other person having ownership, occupancy, or control of any land, or improvements thereon, to permit, allow, or suffer any condition to exist on such property if such condition is prohibited or made unlawful under the provisions of this section. It shall be an affirmative defense to prosecution under section 10-451(b)(12) of this Code that the detectible presence of urine or the presence of feces, vomit or other bodily fluids in or on any property is specifically authorized or permitted by law or ordinance.
- (d) Except as provided below, whenever in this section an act is made or declared to be unlawful, the first violation by any person of any such provision shall be punishable by a fine of not less than \$50.00 nor more than \$1,000.00; the second violation by the same person of any such provision shall be punishable by a fine of not less than \$100.00 nor more than \$1,500.00; and the third and any subsequent violation by the same person of any such provision shall be punishable by a fine of not less than \$200.00 nor more than \$2,000.00. Provided, however, if a person is convicted of an offense under this section which offense is also a violation of the criminal provisions of any state law, such person shall be subject to the criminal penalties set out in state law. Each day any violation of this section continues shall constitute a separate offense.

Violation of item 10-451(b)(13) of this Code shall be punishable by a fine of not less than \$500.00, nor more than \$2,000.00 for each day of violation. The first violation of item 10-451(b)(12) of this Code shall be punishable by a fine of not less than \$200.00, nor more than \$1,000.00; the second violation by the same person of such provision shall be punishable by a fine of not less than \$400.00, nor more than \$1,500.00; the third and any subsequent violation by the same person of such provision shall be punishable by a fine of not less than \$600.00, nor more than the maximum amount allowed by law.

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